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COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

SUMMARY RECORD OF THE 302nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 May 1996, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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GE.96-16560 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial Report of Nepal (continued) (CRC/C/3/Add.34; HRI/CORE/1/Add.42; CRC/C.12/WP.3)

1. At the invitation of the Chairperson, the Nepalese delegation took places at the Committee table.

2. The CHAIRPERSON invited members' comments on questions 10 to 12 and 13 to 18 of the list of issues to be taken up (CRC/C.12/WP.3) concerning the definition of the child and general principles.

3. Mrs. KARP said that she would like to have some detailed information about the actual application of legislative provisions to combat discrimination between boys and girls in Nepal. Were there any plans to overcome the differences between rural and urban areas and what were the priorities in that connection? It would also be useful if the Nepalese delegation could provide some examples of the way in which the courts had interpreted the concept of the best interests of the child.

4. Mrs. SANTOS PAIS asked whether there was any plan to abolish the difference between the legal age for marriage for girls and for boys. Any such differentiation could only strengthen the existing discrimination against girls. As to the minimum age of criminal responsibility, she was extremely concerned by the fact that a child who had committed an offence could, from the age of 10, be deprived of his liberty. Also, under Nepalese law sentences for minors were generally reduced to half of the sentences imposed on adults for comparable acts, which was not the best solution, and persons who inflicted ill-treatment on children were liable to one year's imprisonment only. Were the authorities planning to take any measures to remedy those disparities?

5. With regard to general principles (questions 13 to 18 of the list of issues), some of the Nepalese delegation's replies could have been amplified. In the case of question No. 14, for instance it would be interesting to know more about the measures taken at the local level to reduce the disparities between the urban and rural areas so far as access by children to health, education and even culture was concerned.

6. With regard to question No. 16, she noted that discrimination based on caste still existed in Nepal though it was against the law. She wondered whether measures were being taken to bring about a change of outlook. For example, did school curricula include lessons designed to promote tolerance and mutual understanding?

7. With regard to question No. 17, she noted that under the Children's Act corporal punishment was allowed when inflicted in the best interests of the child. Since that Act could itself pose a problem, she would like to know how the courts had interpreted it.

8. With regard to question No. 18, paragraph 120 of the report stated that there was no provision in the existing laws concerning the promotion of the free expression of the child. What was the actual position bearing in mind in particular the importance of taking the child's views into consideration?

9. Miss MASON, noting that the legal age of employment was not the same in the public and private sectors, asked what the legal consequences of that difference were. She also wondered why the right to vote was granted only on reaching the age of 18 when one came of age at 16 in Nepal. Further, she would like clarification about the minimum age for enlisting in the armed forces. Was it 18, as stated in paragraph 58 of the report, or between 15 and 18 years, as stated in paragraph 329?

10. It was clear that the Nepalese Government was determined to fight discrimination which affected mainly the lower castes and girls. Yet, the Government seemed to be hesitating in its struggle against the caste system. If individuals were really to be persuaded that their place in society was not dictated by birth, however, very firm measures must be taken. None the less, it was not necessarily a good idea to strengthen the sanctions against the parents and guardians who perpetuated such discrimination, for experience had shown that, with education, it was sometimes possible to avoid punishment or monitoring. As for the protection of girls, paradoxically, plans to strengthen their autonomy seemed to perpetuate their traditional roles. In that connection, it was difficult to see how, from the list of responsibilities the Government would like to be shared, boys had kept themselves busy until now. Furthermore, although the Children's Act stipulated that there must be no discrimination between sons and daughters when it came to sharing inherited property, paragraph 185 of the report stated that the father was responsible in law for the maintenance of his son. What was the position with regard to daughters?

11. With regard to paragraph 104 of the report, she would like to have further information as to how the views of children had been taken into consideration in preparing the report.

12. Mrs. EUFEMIO, referring to the law under which a child could seek compensation before a court from the age of 16 if he was accompanied by a representative, asked for what reasons the presence of a representative would be required. To what extent could the child communicate directly with the court and how was he prepared for the hearing? Moreover, the definition of the child should not be based solely on age but also on knowledge and on the extent of his or her capabilities.

13. Turning to general principles, she noted that the Children's Act provided for equal payment for all and asked whether membership of a political party played a part in that respect. So far as discrimination against girls within the family was concerned, she would like to know what steps the Government was planning to take to bring about a change in attitudes. In her view, imposing sanctions on parents who treated some of their children unfairly might needlessly undermine parental authority. She would prefer an approach that was geared to combating poverty in particular. Paragraph 71 of the report dealt with the measures taken to reduce the work burden on girls but it was important not to forget their mothers who also needed protection. Were there

any day-care centres for children of preschool age that would promote their socialization? Paragraph 91 of the report stated that there was no legal provision to punish guardians who did not protect the interests of the child. Did self-help groups play any role in that regard?

14. Mrs. BADRAN said that discrimination against women was particularly fraught with consequences since Nepal was one of only three countries where the life expectancy of women was lower than that of men. The ratification in 1991 of the Convention on the Elimination of All Forms of Discrimination against Women and the creation of a Ministry for the Status of Women were encouraging, albeit belated, measures. The time had come to evaluate the actual situation of women and girls. It was sometimes necessary to introduce compensatory procedures, which were not necessarily to be regarded as discriminating against men. Preschool education, for instance, should encourage girls to make up for the very high school drop-out rate in that population group. The problem called for a global approach and Nepal should take advantage of the assistance with which various organizations, such as UNICEF, were prepared to provide it in that connection.

15. In the case of discrimination based on caste, the approach must be identical. Minds should of course be educated, particularly within the family, but the political and legislative steps necessary to bring about the desired change in behaviour should also be taken. For example, if certain castes were denied access to certain posts, an effort must be made to exercise positive discrimination in favour of those concerned so that everyone knew that it was possible, through education, to improve oneself socially.

16. Paragraph 106 of the report stated that in the family the views of children were rarely taken into account. True, children did participate in certain ceremonies, and did go to lectures and shows, but that was not really participation. In any event, even though it played an important role, the family was not the only place to learn how to participate. Voluntary action was also required, stimulated by associations, groupings and genuine structures and directed mainly at the school, as the strategic point for acquiring such knowledge.

17. The gap between the letter of the law and its practical application was still too wide. To reduce that gap, one must again turn to the school and start by making education compulsory for all. That presupposed action against discrimination which could include "compensatory" measures in favour of girls.

18. The CHAIRPERSON said that, like Mrs. Badran, she would stress the need to strengthen in practice respect for the principle of non-discrimination against women. The Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child were in fact complementary and Governments could, by such measures as "positive discrimination", create an environment conducive to a change in attitudes towards women and children.

19. Mr. SHAKYA (Nepal), replying to the question about the difference between the services provided for children in rural and in urban areas, said that the country was divided into 3,996 village development units which benefited under the terms of the five-year plan. The Government was also endeavouring to

establish banking facilities, one bank for every 30,000 inhabitants, and to increase the number of primary schools. Those services would have a definite role and would be in addition to the activities of the village development committees, each of whose nine members, except for the Chairman and Vice-Chairman, represented about 1,000 persons. The committees received a subsidy of 500,000 rupees a year for social development, a large part of which was used to provide primary schools with basic equipment. In addition to the subsidy, many individuals, clubs and private organizations made donations.

20. The difference between the ages for marriage of girls and boys would remain, but a bill to raise the age to 18 years for girls and 22 years for boys and then to abolish the obligation to obtain the parents' consent, was under consideration.

21. A question had been raised concerning the age at which legal proceedings could be brought. Any individual could do so from the age of 16. Before then, he or she had to be represented either by counsel or by any person who submitted a complaint on his or her behalf to the courts. A minor under 16 years of age could not give evidence in court.

22. There were still no juvenile courts but it was planned to establish them. In the meantime, any case involving a child was dealt with by a special team of three district court judges who could call upon the services of child psychologists and social workers. No such case had as yet been brought before a court, which explained the Government's delay in putting the plan into effect. For the same reason, it was difficult to answer the question concerning the interpretation of the Convention by the courts.

23. The age of criminal responsibility, another question raised, was 10 years. If a child between 10 and 14 years of age committed an offence entailing a fine, he was merely admonished. If the offence entailed a prison sentence, the child could not be sentenced to more than six months in detention. For an offender aged from 10 to 16 years, the prison sentence was half that of the sentence imposed on an adult. As matters stood, Nepal was not contemplating any change to those provisions.

24. With regard to sex discrimination, particularly in the matter of property and inheritance, if the father died before the property was distributed, his widow and children inherited; but the father was responsible only for the maintenance of his son, not for that of his daughter. Young lawyers and militant feminists however, considered that those provisions were discriminatory and contrary both to the Constitution and to the Convention on the Elimination of All Forms of Discrimination against Women, to which Nepal was party, and had therefore referred the matter to the Supreme Court which had decided that the Government, in consultation with the competent organizations and sectors of civil society, should submit a bill to put an end to such discrimination within a period of one year, namely, by January 1997. The bill was under consideration and was the subject of public discussion. Women were gradually becoming aware of their position and, even if the right to own property remained unchanged, it was planned at least to make the father responsible for the maintenance of his daughters as well as of his sons. The preparation of Nepal's report to the Committee on the Elimination

of Discrimination against Women would undoubtedly clarify the position and would pave the way for reducing the differences between the sexes.

25. The right of the child to participation was something quite new in Nepal. Having regard to the fact that at the present time it was the man who took the decisions, without even asking for his wife's opinion, it was easy to see that children would not have the right to a say in matters in the immediate future. Attitudes were of course changing little by little, particularly since, under the democratic system, candidates in the elections made promises which transmitted the message, as it were, and public opinion expected those promises to be followed by specific measures. There was still no question, however, of providing for sanctions against a man who took a decision without seeking the opinion of his wife and children.

26. In practice, discrimination, particularly on the ground of religion or caste, still existed in Nepal, but it was far less serious than in India even though Nepal was a Hindu kingdom. In that connection, the traditional ban on entry into certain places of worship should not be regarded as a discriminatory measure, strictly speaking. The Government's moves to combat discrimination in health, education and employment were communicated through films and advertisements. The attention of the King and of Parliament had been drawn to those problems.

27. In Nepal, all children were admitted to school, whatever their caste. There were however more boys than girls in school, which amounted to discrimination against the latter. The authorities were endeavouring to develop distance learning in order to remedy the situation. Also, although there was provision for primary schools to teach in the different Nepalese dialects, sometimes there were not enough teachers or textbooks.

28. It was true that in rural areas women had to perform most of the household tasks while the men often remained idle. That situation could be resolved not through legislation but rather by making the population aware that it was only right and proper to share the work fairly. Another solution would be to develop infrastructure services in the villages so that the women no longer had to lay in a supply of wood and water in order to prepare meals. Nepal had considerable hydroelectric potential which should be developed for the benefit of the inhabitants of rural areas.

29. The public authorities were endeavouring to build more schools, as they realized that education was a decisive factor in changing behaviour in society. In 1996, the funds allotted to education accounted for 14 per cent of the State budget.

30. The CHAIRPERSON asked what exactly was the age for military conscription.

31. Mr. SHAKYA (Nepal) said that it was 18 years. Young Nepalese men could enlist from the age of 15 years in order to follow military training but nobody under 18 years of age could be recruited into the army.

32. The CHAIRPERSON invited members to address their comments to, or seek clarification from, the delegation.

33. Mrs. KARP observed that there was a sizeable traffic with India in young Nepalese girls who were apparently discouraged from returning to Nepal for fear that they might help to spread the AIDS virus. She urged the Nepalese Government to monitor more closely the transit of children between Nepal and India.

34. With regard to the physical integrity of the child, she trusted that the Government would do everything possible to put an end to the traditional practices suffered by young Denki and Kumari girls. There again, it was not enough to ensure the law was applied: the attitude of the people must be changed. The law prohibiting sexual exploitation of children within the family also did not seem very clear and the sanctions for which it provided did not seem to be at all severe. Furthermore, was there any machinery whereby battered children could make a complaint, and could such children actually obtain compensation for the damage they had suffered? Lastly, to make it easier to register births, she recommended that the Nepalese Government should establish additional registries, in hospitals for example, to offset the shortcomings in that area.

35. Mrs. SANTOS PAIS said that there was a great disparity between law and practice so far as the rights of the child were concerned. Admittedly, the law was in conformity with the Convention but the Government should endeavour, by means of education and information campaigns, to influence attitudes.

36. The legal age for marriage should be the same for boys and girls, in keeping with the spirit of the Beijing Conference. Similarly, in the matter of succession, the heirs, both boys and girls, should be treated on an equal footing. The age of criminal responsibility, which was fixed at 10 years, was too low: it was inconceivable that a 10-year-old child could be deprived of his or her liberty. As to paragraph 151 of the report, imprisoning children with adults and treating them as harshly as the latter was contrary to article 40 of the Convention. With regard to the views of the child, it was implicit in the law which provided that any adult could represent before the courts a child whose rights had been violated that children were not regarded as fully-fledged persons. Moreover, if the child suffered ill-treatment at the hands of his parents, they could not be expected to bring a complaint against themselves. There was no law providing for the punishment of parents who inflicted ill-treatment on their children and it should therefore be clearly established in law that parents must carry out their responsibilities towards their children. Paragraph 210 of the report stated that, under the Children's Act, parents, teachers, guardians and child welfare officers could penalize a child for indiscipline but could not deny children food. That provision allowed considerable scope for inflicting on children punishment which, though admittedly less severe than the denial of food, was too severe. The Act should therefore be reviewed.

37. The fact that the sentences laid down for the punishment of acts of torture were lacking in severity gave cause for concern, and the authorities should be encouraged to make such sentences harsher while bearing in mind article 37 (a) of the Convention. She would like to have information about

the procedure for filing a complaint in cases of torture. Was there an independent institution to which children who were the victims of torture could turn and was there an organization to ensure that acts of torture did not occur in prisons or social institutions?

38. Miss MASON, referring to paragraphs 107 and 117 of the report, said that she would like to have further information about the people living in the Terai and in the hills, who had difficulty in obtaining citizenship certificates as they did not have the necessary documents. What was the position of children who had not been declared? If they could not prove that they existed in law, how could they have access to the relevant services? Were the authorities planning to facilitate the registration procedures, for instance, by using mobile units? Paragraph 127 of the report stated that, in rural areas, children did not have access to the relevant information because of transportation and communications problems. In that connection, it should be remembered that States parties were under an obligation to promote the dissemination of information and material of social and cultural value for the child.

39. With reference to paragraph 151 of the report, she said those responsible in general for applying the law and prison staff in particular should receive training in human rights issues. Lastly, the Nepalese Government's objective should be not so much to reduce the number of discriminatory practices based on sex and caste, but rather to abolish them.

40. Mrs. KARP said it was surprising that the Nepalese Government stated, in its written reply to question No. 27, that no case of violence within the family had been reported. Yet it was common knowledge that invariably, there were such practices in all countries. Moreover, as a child could be heard as a witness only from a fairly advanced age, it would be useful to have information concerning the measures taken, in accordance with article 12 of the Convention, to allow the child to be heard in any judicial or administrative proceedings concerning him.

41. Mrs. SARDENBERG said she wondered why the Nepalese delegation had often used the word "later" concerning the application of a number of provisions in the Convention. She would also like to have information on the discrimination suffered by members of the lower castes, and in particular children, and also on the age at which a child could be enlisted in the armed forces. Lastly, she would like to know whether, in accordance with article 12 of the Convention, the child was entitled, within the family to express his opinion freely on any question of concern to him.

42. Mrs. BADRAN said she would like to know what role the NGOs played in combating the various forms of violence suffered by children and what measures were taken to protect abandoned children and in particular to ensure that they did not fall into prostitution and that their organs were not removed as, according to certain information, had occurred.

43. Mrs. EUFEMIO said that she would like to have information about the registration of births of abandoned children and the way in which the best

interests of those children were taken into account when they were adopted or placed in foster homes. She would also like to know what measures were taken to prevent children from being exploited in their adoptive family and, in particular, whether Nepal had ratified The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

44. Mr. SHAKYA (Nepal) said that trafficking in young girls between Nepal and India was indeed on the increase despite the prison sentences of up to 20 years, to which those who engaged in it were liable. According to various estimates, between 100,000 and 150,000 girls were the victims of such trafficking, which it was difficult to stop because of the difficulties in monitoring the Indo-Nepalese border. Nepal and India were therefore planning to sign an agreement with a view to overcoming the problem.

45. As to the difficulties the Kumari ("living goddesses") had in marrying, which stemmed from the belief that a man who married one of them was doomed to die within six months of his marriage, attitudes had changed considerably and the Government was endeavouring, with the help of the NGOs, to put an end to such beliefs which infringed the rights of certain categories of girls and in particular the Denki and the Badi.

46. In general, the NGOs made a major contribution to the application of the law on the protection of children by reporting the abuses they suffered. The Nepalese Government did not deny that violence, and in particular sexual violence, existed within the family but would simply point out that there had been no recorded case of violence thus far. The Government could therefore investigate the matter in collaboration with the NGOs.

47. With regard to article 12 of the Convention, it should be noted that the child could be heard in any judicial or administrative proceedings concerning him or her, through the person representing him or her. In that way, the courts ensured that the opinions of the child were duly reflected.

48. It was true, that the bill to compensate persons who suffered torture did not refer expressly to cruel, inhuman or degrading treatment and so did not fully comply with the Convention. But the Nepalese Government would take due account of the Committee's view that a one-year term of imprisonment for persons who had tortured a child or an adult was inadequate.

49. A bill providing for the establishment of a national commission of human rights had been drafted with the assistance of the Centre for Human Rights and would be tabled before Parliament at its next session.

50. With regard to civil status, the Government had launched a broad campaign to alert citizens to the need to declare marriages and births in particular. Although in principle a birth certificate had to be presented when a child was enrolled, schools had never refused to enrol a child who did not have such a certificate. It was merely a question of encouraging parents to have certificates issued. Children born in maternity hospitals were registered automatically but there were still not a lot of those hospitals. The Government had therefore initiated a project, in collaboration with NGOs, WHO and UNICEF, to establish more maternity hospitals.

51. As to the "light punishment" parents were entitled to inflict on their children, his delegation recognized that it was necessary to make sure that such practices were not used to the detriment of the best interests of the child. Lastly, at the legislative level, Nepal would endeavour to bring its law more into line with the provisions of the Convention and to apply existing laws fully in practice. In particular, it would take steps to ensure that the age for marriage was the same for boys and for girls even though, according to some doctors, the existing difference was justified on biological grounds.

The meeting rose at 1.05 p.m.

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GE.96-16566 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Nepal (CRC/C/3/Add.24; HRI/CORE/1/Add.42; CRC/C.12/WP.3) (continued)

1. Mr. SHAKYA (Nepal) replying to a number of points raised by members of the Committee, said that laws had been reviewed and brought into line with the Convention, but he had to admit that their practical implementation was proving problematic. He asked the Committee members to point out any shortcomings they may have spotted in the law itself, and appropriate action would be taken.

2. There were no separate schools for different castes, and he did not think there was a major problem in that area.

3. He acknowledged that the Government faced difficulties in addressing the problems caused by the lack of border controls.

4. He stressed that 18 was the minimum age for recruitment in the armed forces, though children could enrol for military training at the age of 16.

5. The idea of child participation was new to Nepal, and it was very much feeling its way in that area, gradually increasing public awareness through the media and some workshops and seminars.

6. Non-governmental organizations played a major role in focusing the Government's attention on children's issues in Nepal. They had pressured the Government and provided it with information which would otherwise not have been available to it, and had been instrumental in getting the Convention adopted. Action by non-governmental organizations had led the Government to introduce new measures on adoption. The non-governmental organizations were mostly statutory bodies and were required to produce annual audited reports.

7. To the Government's knowledge, there was no link between missing children, most of whom were found safe in Nepal, and the sale of human organs. However, now that the Government had been alerted to the possibility, it would be even more vigilant.

8. On the question of registration, he explained that abandoned children whose parents could not be traced were given the name of the person to whose care they were entrusted. He was not sure whose name the child was given on the less frequent occasions when he or she had to be taken to an orphanage or similar institution and the natural parents could not be traced. Any child whose parents could not be found became a citizen of Nepal automatically.

9. A citizenship certificate was a sort of identity document, usually issued at the age of 16. As an illustration of national legislation being waived in favour of the provisions of the Convention, he described the case of a group of children not yet old enough to hold such a certificate who wished to register a non-governmental organization. Nepalese legislation would not

normally have allowed children under 16 to register an organization, but article 15 of the Convention, on freedom of association, had been successfully invoked.

10. He confirmed that Nepal was only a signatory to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, though the Government was considering ratifying it.

11. Miss MAKAU said that, while making allowances for Nepal's young democracy and the problems it faced, such as controlling cross-border flows, she could not accept that trafficking, sexual abuse, domestic violence and so on did not take place in Nepal, when there was not a country in the world where they did not take place. She was concerned at the apparent ineffectiveness of the country's legal system, and had doubts about the attitude of Nepalese society towards safeguarding the rights of the child. She asked if the social worker system was effective and whether social workers were adequately trained to deal with child abuse. As "fair houses" had yet to be set up and there were not enough children's homes, she wanted to know where children were housed on the rare occasions that they dared to lodge a complaint about abuse.

12. She asked whether there was a law against incest, what the general attitude of the public was to incest, whether there were counselling services available to the victims and perpetrators, and whether there was any kind of compensation available to victims. She suggested that legislation on domestic abuse should be introduced, or reviewed if already in place. She also wondered whether the attitude of law-enforcement personnel needed to be looked at, perhaps incest and domestic abuse were considered private matters to be sorted out within the family.

13. Nepalese law was quite specific on the responsibilities of parents towards their children, but clarification was needed on the State's legal responsibility to children under the terms of the Convention. It appeared from paragraph 263 of the report that no minimum standard of living was prescribed and that there were no financial provisions for poor families.

14. Finally, she noted that the non-governmental organizations took on a good deal of responsibility in Nepal and there was a nagging doubt that the Government was becoming over-reliant on them.

15. Mrs. SANTOS PAIS said that on the question of birth registration, the Government's effort to raise awareness by using radio was an interesting approach and might be effective. Mobile registration units should be tried; they had been effective elsewhere, and it was relatively easy to train staff. In addition, schools, as well as hospitals and clinics, should be allowed to register children.

16. The Convention was unequivocal on the question of corporal punishment. The lack of complaints, for which there could be various explanations, did not justify the continued tolerance of even light beatings. Corporal punishment should be prohibited by law.

17. She welcomed the Government's willingness to review national legislation in relation to torture, cruelty and other inhuman or degrading treatment.

The current sanctions did not reflect the seriousness of such violations of children's rights. It was important for the Commission on Human Rights bein set up in Nepal to carry out independent investigations into individual case

18. The law on the minimum age for marriage should be changed to make it t same for boys and girls, and legislation must be followed up with awareness and education campaigns to alert girls, in particular, to the problems cause by early marriages and the responsibilities that went with being a parent.

19. A new law was needed to prevent child trafficking and break the viciou circle whereby parents sent girls to India to get money, and then sent them back for more when they returned. The Human Trafficking (Control) Act of 19 was not sufficient on its own. Non-governmental organizations could perhaps help by raising awareness and monitoring the results of new legal measures.

20. Attitudes towards child labour had to be changed. The imprecise langu in the Children's Act, referring to children not being allowed to work beyon their physical capacity (para. 164 of the report), was inadequate. Schools, non-governmental organizations and UNICEF should cooperate in persuading the population that children should not be working.

21. Mrs. KARP suggested that, when the Commission on Human Rights w s set in Nepal, a specific department should be established to deal with children' rights, as experience had shown that without a specific mandate the best intentions tended to go awry.

22. A study was needed to identify the reasons why victims of sexual exploitation or domestic violence did not complain. Victims needed to know in advance that any complaint would be handled correctly, and to that end th procedures for investigation, giving testimony and rehabilitation had to be looked into.

23. Clearly, a change of attitudes in society was needed if the practice o enforced marriages was to be ended. A more radical approach would be to mak the arranging of such marriages a criminal offence.

24. She expressed her satisfaction that a start had been made on parental education, and suggested that parents should be taught about the rights of t child, incest and alternatives to beatings, if that was not already the case

25. Addressing her question to Ms. Tuladhar (Child Awareness Group), she asked if her organization had given any thought to educating parents on how deal with domestic violence and incest and, if it had discussed the problem whether it had come up with any suggestions on action to be taken by the St and on how attitudes could be changed within families.

26. She understood that UNICEF was involved in a new project to combat chi trafficking and asked for some details of the campaign and what it hoped to achieve.

27. She commended the delegation for its readiness to begin research into extent of physical harm caused by corporal punishment. In too many cases,

child abuse began with parents mistakenly believing they were educating their children, and ended with them causing physical damage to the child.

28. Mrs. BUFFMIQ asked what action was planned to protect children from the possible adverse effects of finding themselves in a family situation of polygamy, bigamy or concubinage. She asked when work would begin on the situational analysis of the family, to determine what child care arrangements existed. According to reports, some children were left at home alone while the parents were working. She suggested if a small UNICEF project, which encouraged neighbours to help each other out, could be replicated on a larger scale.

29. Finally, she asked for information on the use of child labour in domestic service, and particularly on the situation of young girls exposed to sexual exploitation.

30. It had been noted that alcoholism was an important factor in domestic violence. Did Nepal plan to introduce any programmes to deal with the problems caused by alcohol abuse? Similarly, what were the authorities, non-governmental organizations (NGOs) and Church doing to provide pre-marriage counselling in order to prepare people for parenthood and help prevent domestic violence?

31. She asked what measures were being implemented to encourage street children with families to return home, and whether the importance of education was being impressed upon them. Finally, information would be welcome on the minimum standard of living, whether there was a relevant index and whether steps were being taken to encourage income-generating activities as a way of alleviating poverty.

32. Mrs. BADRAN said it would be useful to study the incidence of disability among children and the causes so that preventive measures could be taken. A programme was also needed to cater for mentally disturbed children, provide suitable treatment and determine how far the causes were related to family problems.

33. Mr. SHAKYA (Nepal) said that the establishment of a social security system was one of Nepal's priorities. There were no official statistics on the standard of living, although estimates indicated that approximately 49 per cent of the population lived below the poverty line and that the average annual per capita income was in the region of US$ 200.

34. On the question of domestic violence, sexual abuse and the trafficking of children, he said that although legislation prohibiting such offences existed, it was not being implemented effectively. The Committee's suggestion on the training of social workers would be duly considered. It was true that cases of abuse, trafficking and so forth were not being reported. That would have to be looked into, as would the possibility that complaints procedures were too complicated and the fact that people were simply reluctant to come forward for social reasons. However, when cases were reported, they were taken very seriously and in the case of trafficking, the burden of proof lay with the defendant. One positive aspect of Nepalese life was the traditional family unity, which would seem to preclude sexual abuse within the family. As the

Committee had suggested, awareness-raising campaigns would be invaluable if they brought together parents, NGOs, communities and the police. The United Nations Children's Fund (UNICEF) had managed to mobilize students and the police on the questions of abuse, domestic violence and trafficking. With regard to the effect of alcohol abuse on the incidence of domestic violence, Nepal, following a campaign waged by a number of women, had declared several districts alcohol-free zones.

35. With regard to street children, children's homes and children in conflict with the law, he said that a correctional home for child offenders would be set up under the Ministry for Women and Social Welfare. More could be set up at a later date. Bal Mandirs (children's homes) had been set up in the 75 districts but further homes would hopefully be opened under the District Child Welfare Board. From studies, it appeared that street children moved to urban areas mainly for economic reasons. Nepal was looking to NGOs and the Committee itself for suggestions on how to deal with the problem of such children, particularly those without families, who would probably need institutional care.

36. As to whether children were learning the importance of education, he said that Nepal still lacked a compulsory education system, although primary education was free. In some areas, schemes had been set up to provide a small amount of money to families to encourage them to send their children, particularly their daughters, to school.

37. Efforts were being made to educate parents on the rights of the child, in conformity with the Convention. Although not all the aspects mentioned by members of the Committee were covered, particular emphasis was placed on children's health and education. The awareness-raising tactics being used were similar to those adopted in the campaign to help parents combat diarrhoea in children. Unfortunately, the State was still not in a position to provide direct financial assistance for the care of children.

38. By law, birth registration was dealt with by Village Development Committees. The suggestion that schools could assist in registration would be duly considered. As to the registration of marriages, unless the couple were of legal marriageable age, registration would be denied. However, even though the marriage was not legally recognized, it could be recognized by society. Registration was often hindered by illiteracy, the lack of registration offices and the problem of verifying the ages of couples.

39. Most marriages in Nepal were arranged. If the low divorce rate was any indicator, the system seemed to function well. Traditionally, Nepal had sanctioned the practice of polygamy so that the wives could, for example, help work the land. However, such practices had been prohibited by law in recent years. That did not mean that such traditional practices had been totally eradicated in remote mountain areas, for example. The only provision that harked back to the days when polygamy was permitted related to a husband's right to marry a second wife if the first wife had been barren for 10 years.

40. With regard to the beating of children, he said that light corporal punishment was permitted by law. It was assumed that parents would have the best interests of the child at heart and not be tempted to use excessive violence.

41. On the question of child labour, he said that children under 14 years of age were not allowed to work. Between the ages of 14 and 16 they could do light work, which according to labour rules meant that they were not permitted to lift weights over 15 kilos.

42. The possibility of appointing a commissioner on the rights of the child and a commissioner for the rights of women would be given due consideration.

43. Grandparents played a prominent role in the upbringing and care of children. In rural areas in particular, it was also common practice for neighbours to look after other people's children. That was, however, less common in urban areas, where neighbours had less contact.

44. It was difficult to make provision for disabled children inasmuch as the estimated numbers of disabled people varied so widely, from 0.5 per cent of the population to 15 per cent. The position would be clearer once studies being conducted by the Nepal Disabled Association and the United Nations Children's Fund had been completed.

45. Ms. TULADHAR (Child Awareness Group) stressed the importance of parental support in spreading awareness of the Convention. Unless parents were convinced of the value of her Group, they were reluctant to allow their children to attend seminars in Kathmandu. Parents had, therefore, been invited to participate and the interaction had proved valuable.

46. She hoped that the State would do more to support child awareness, both by encouraging support from parents and more generally. Her Group had initially had to overcome many obstacles because it was not registered; at the same time the organizers had been told that they could not register it because, as minors, they were not citizens. Registration had been achieved only after an appeal to the highest levels. Communication, too, was important; she herself had not heard about the Central Child Welfare Board described earlier by Mr. Shakya and she would like them to be more widely publicized.

47. The CHAIRPERSON said that Ms. Tuladhar's remarks provided strong support for the Convention's insistence on freedom of expression and of association. She hoped that the Government would take heed. She also considered that there was room for more cooperation between the Government and non-governmental organizations. The Government could and should ask for more help, particularly for technical assistance, to promote activities benefiting children. The decentralization of such activities would also be useful.

48. Miss MASON noted that, in discussing health care, the report restricted itself to infants. She wished to know more about the health of the teenage population, with regard not merely to sexually transmitted diseases, but also to their general physical and mentally health. She asked what level of care was provided for such children, especially girls, in rural areas. With regard

to those already suffering from it? She asked what facilities were available and whether sufferers were informed about their condition, whether they could avoid being stigmatized and whether they had access to health centres. She also asked whether health care and sex education were taught in schools.

49. She asked whether there was any scheme to prevent children in conflict with the law from entering the criminal justice system. In some countries, the police were authorized to recommend that the child should be counselled, as a result of which the case might not reach the courts. She also asked about the arrest procedure and to what extent social workers and parents were involved. Could the parent be present in court? And was there a possibility for a social worker to present a report taking into account the child's circumstances?

50. A further concern was the situation of child workers. She asked whether there were any regulations protecting and guaranteeing the rights of children in private employment. What benefits could they enjoy? Were there trade unions catering for them and were they allowed to join such unions? She also wished to know whether a labour inspectorate existed and, if so, whether it was regulated, whether there were any sanctions against employers who did not fulfil their obligations under the Labour Act and whether any recreational opportunities existed for child workers, as opposed to the facilities provided for the children of workers, mentioned in paragraph 319.

51. Lastly, she was confused by the information on rape contained in paragraph 379, particularly the last sentence, which stated that the punishment of life imprisonment depended on the level of brutality involved and the relations between the rapist and his victim. She asked for clarification.

52. Mrs. KARP asked whether children under 16 were able to have medical treatment without their parents' knowledge or consent and, if so, what protection they had from unethical doctors who might disclose details of the consultation, particularly on sensitive subjects such as sexual behaviour and drugs. Secondly, noting that a drug problem existed not only in Kathmandu, where rehabilitation programmes were available, but elsewhere, she asked what plans the Government had to tackle the problem in rural areas.

53. Mrs. SANTOS PAIS said that the reality was that only 15 per cent of children had access to health services, malnutrition was rampant in rural and poor urban areas and half the population lived below the poverty line. Lack of resources, however, should not prevent all available resources - including those of international organizations, of which the Government should do more to avail itself - going to children as a priority and being used in particular to help the most disadvantaged through positive discrimination. She had been struck by the level of pollution, particularly in and around Kathmandu; action should be taken to tackle that.

54. She was also concerned about children in the justice system. The intentions expressed in the report were admirable, but many had not been implemented. Lack of resources need not always be a reason for not introducing improvements; alternatives to putting children in prison, for example, could be found. Another area of concern was the attitude of the

police to children. She asked what kind of training the police received, what complaints system existed, so that those violating the law could be punished, and how much the police were paid. If they were badly paid they were tempted to be corrupt, which could be harmful to children engaged in prostitution, for example. She also asked how girls could be persuaded to abandon prostitution. What education or training were they given if they left the brothel? Lastly she asked for further details about the provision of the Muluki Ain under which mentally disturbed children could be put in chains.

55. Mrs. BADRAN expressed concern that Nepal's economy was so weak - and seemingly getting weaker - that it would be unable to implement its ambitious plans. She reminded the delegation that the envisaged rapid industrialization, if carried out with support from the World Bank and the International Monetary Fund, would take a heavy toll of the country's financial resources. Nepal should not make plans on the basis of a non-existent budget.

56. Mrs. SARDENBERG asked whether traditional medicine existed in the villages and, if so, whether it could replace reliance on chemical drugs. Similarly, it might be possible to form a network of health volunteers to help with basic health care. She also asked whether, following the completion of studies on vulnerable groups such as domestic servants, measures to improve their lot were being planned.

57. Mr. SHAKYA (Nepal), responding briefly to the questions that had been raised, said that teenage health was quite a new issue. The biggest problems were drug abuse and AIDS. Some drug awareness and rehabilitation centres existed, but only in urban areas, whereas the problem had spread to the countryside as well. An AIDS prevention programme had been started, but few educational measures had been taken. The incidence of AIDS in a given person was revealed only when that person donated blood or had a blood test for some other reason. Sex education was not conducted in schools and information was largely provided by notices in hospitals and elsewhere. Health care, however, was taught in schools. With regard to whether children could seek medical treatment without their parents' consent, he said that there was no law prohibiting such action, but there were no figures on how many children sought such treatment.

58. Traditional Nepalese belief was that certain rites associated with death had to be carried out by a son, otherwise the parent would go to hell. Family planning was naturally affected by such a belief, with families always striving to produce a son. There were no laws in that regard; awareness needed to be raised and in some families the necessary rites were performed by women. The Government, which hoped to see a maximum of two children per family, was encouraging religious leaders to speak out against the requirement for sons.

59. Priority must undoubtedly go to children, if only because 46 per cent of the population was under 16; if their health was neglected there would be no workforce in 20 years' time. As for the economy, he was confident that it would improve and that Nepal would be able to industrialize without calling on the International Monetary Fund or the World Bank. The Government hoped that

the funds required to industrialize the country would be forthcoming from existing donors such as Norway, Denmark and various United Nations organizations.

60. His Government was aware of the problem of pollution in Kathmandu and efforts were also being made to resolve the problem of waste disposal. In that regard, he said the drainage system, which was 50 years old, had to serve a population which had greatly increased. The issue of urban development was being given serious consideration by the relevant authorities, and the United Nations Conference Settlements was also assisting in urban planning.

61. With regard to child trafficking and prostitution, the solution was not to be found in severe legislation but in parental care, professional training and economic development.

62. He stressed the importance of traditional medicine in the rural areas.

63. The CHAIRPERSON invited the Committee members to submit their conclusions.

64. Mrs. FAPP said that the dialogue had been very informative. The fact that the rights of children were on the political agenda was of great importance. She was pleased to learn that the Children's Act would be reviewed in the light of statements made in the Committee. She was also pleased to learn that Nepal had begun to establish institutions to implement and coordinate the rights of the child. She stressed the importance of establishing district institutions in that regard and of defining the roles to be played by the Government and the NGOs.

65. She also wished to stress the fact that Nepal was the first country to have included a child in its delegation. Such child participation was of great value.

66. The greatest problem seemed to be that of illiteracy and Nepal should be encouraged to introduce compulsory education as a priority.

67. Another difficult issue was child labour, and the Committee welcomed the statement that the Government was considering adopting ILO Convention No. 138.

68. In seeking a solution to the problem of street children, the Government of Nepal should also give consideration to the fact that some street children left home because of domestic violence and exploitation.

69. With regard to juvenile justice, much had been said about the early age of criminal responsibility, the need to find alternatives to imprisonment and the situation of children imprisoned with adults. The Government should also look into the question of treatment of mentally-ill children in that regard.

70. Mrs. SANTOS PAIS said that it was important to ensure full conformity between the Convention and national legislation. Areas needing attention included effective enforcement of the law and remedies, and the need for increased awareness in order to overcome prevailing prejudices regarding the caste system and early marriage.

71. Another area of importance was data collection. She stressed the need for the Government to pursue its efforts to cover all the areas identified in the Convention, all the regions of the country and all groups of children, including those who were less visible such as victims of trafficking, and prostitution and children who belonged to the low castes.

72. With regard to child labour she said that activities such as work within the family, work in agriculture and work as domestic servants should not be forgotten. With regard to child prostitution, she stressed the need to provide an effective alternative so that prostitution would not be the only way of surviving.

73. She drew attention to the fact that the Government of Nepal and the Centre for Human Rights were in the process of developing a programme of technical cooperation. It was very important to take account of the Convention in that programme.

74. Miss MASON associated herself with the comments made by other members of the Committee.

75. With regard to education, the Government of Nepal should consider the possibility of making the maximum use of religious leaders and other influential persons in order to change traditional attitudes which were negative for the development of children and take full advantage of child participation.

76. Mrs. EUFEMIO noted that the report had been self-critical and had referred to the various constraints and difficulties faced by the Government. An analysis of the legislation, customs and traditions relating to the rights of the child should be made with a view to promoting the best interests of the child.

77. Mr. SHAKYA (Nepal) thanked the members of the Committee for their consideration of his Government's report and expressed his delegation's gratitude for the experience and knowledge it had gained during the session.

The meeting rose at 6.15 p.m.